XIV

XIV

717

A Regulation
for the peace - -
- - - - - -
of the Territory
known as the Santhal
Parganahs
1872

Sub. - Land And
Legislation /
Indian / Regulation
Regulation 1872

XIV
717

WEST BENGAL SECRETARIAT LIBRARY

A Regulation for the peace and good
Government of the Territory
known as the South of
Pargunnahs

1807

REGULATION I OF 1872.

REGULATION UNDER ACT XXXIII VIC., CAP. 1

SANCTIONED BY THE GOVERNOR-GENERAL IN COUNCIL,
29TH APRIL 1872.

A Regulation for the peace and good government of the Territory known as the Sonthal Pergunnahs.

1. This Regulation may be called the Sonthal Pergunnahs Settlement Regulation.

2. It extends to the whole of the Sonthal Pergunnahs, as described in the schedule attached to Act X of 1857, and in the Notification of the Governor-General in Council, No. 478, dated 12th March 1872. It shall come into force on the first day of May 1872 It shall be read with Act XXXVII of 1855 and Act X of 1857.

3. Subject to the provisions of this Regulation, the Regulations and Acts mentioned in the schedule annexed to this Regulation, or such portions of them as are unrepealed, shall be deemed to be in force in the Sonthal Pergunnahs. No other Regulations or Acts shall be deemed to be in force in the Sonthal Pergunnahs except so far as regards the trial and determination of the civil suits mentioned in Section 2, Act XXXVII of 1855, in which the matter in dispute exceeds the value of Rs. 1,000, when such suits are tried in the Courts established under Act VI of 1871.

In addition to the Regulations and Acts mentioned in the schedule, the Lieutenant-Governor of Bengal may, by a notification in the *Calcutta Gazette*, direct that any other Bengal Regulation, or any other Act passed by the Governor-General of India in Council, or by the Lieutenant-Governor of Bengal in Council, or any part of any such Regulation or Act, shall have force and effect in the Sonthal Pergunnahs, and may, by a similar notification, declare that any Regulation or Act, or part of a Regulation or Act, which may have been, or may be introduced by him, shall no longer have force and effect in the Sonthal Pergunnahs.

4. The Lieutenant-Governor of Bengal may, by notification in the *Calcutta Gazette*, invest any competent officer in the Sonthal Pergunnahs with the powers of any Civil Court established under Act VI of 1871, and may exclude the whole or any part of the said Pergunnahs from the jurisdiction of any of the Courts established under the said Act now having jurisdiction therein. Nothing in Sections 3 to 9 (inclusive), 32, 33, and 34 of the said Act, applies to any officer invested with the powers of a Court under this section; but all the other provisions of the said Act apply, *mutatis mutandis*, to officers invested.

5. Till such time as a settlement of the whole or any part of the Sonthal Pergunnahs shall be made under the rules hereinafter provided, and the said settlement shall be declared by a notification in the *Calcutta Gazette* to have been completed and concluded, no suit shall lie in any Court established under the said Act VI of 1871 in regard to any land, or any interest in or arising out of any land, or for the rent or profits of any land, or regarding any village headship or other office connected with the land, except as hereinafter provided; but such suits shall be heard and determined by the officers appointed by the Lieutenant-Governor of Bengal under Section 2 of the said Act XXXVII of 1855, or by the settlement officers hereinafter mentioned, according as the said Lieutenant-Governor shall from time to time direct. Provided that if it shall appear to any officer empowered to try any such suit to be just and expedient that such suit, or that any

issue arising in such suit, should be tried by the Court established under the said Act VI of 1871, which would have had jurisdiction if this provision had not been made, he may (subject to the direction and control of the officers to whom he is subordinate), either on the prayer of the parties or on his own motion, make a certificate to that effect and transfer the record, if any, to the said Court. On the receipt of such certificate the said Court may proceed to try and determine such suit or issue under the same rules and in the same manner as if the suit had been originally instituted therein. On the decision of such suit or issue, the Court shall certify its decision to the officer by whom the certificate was made, who shall thereupon apply or execute such decision.

Usury.

6. All Courts having jurisdiction in the Sonthal Pergunnahs shall observe the following rules relating to usury, namely—

(*a.*) Interest on any debt or liability for a period exceeding one year shall not be decreed at a higher rate than two per cent. per mensem, notwithstanding any agreement to the contrary, and no compound interest arising from any intermediate adjustment of account shall be decreed.

(*b.*) The total interest decreed on any loan or debt shall never exceed one-fourth of the principal sum, if the period be not more than one year, and shall not in any other case exceed the principal of the original debt or loan.

7. Agreements between cultivators or headmen of villages and the persons to whom rent is payable by them, respecting such rent or regulating their respective rights in the land for which such rent is payable, shall not be liable to any stamp.

8. The Court Fees Act, 1870, shall not be applicable to any suit or other proceeding before any officer making a settlement, or before any officer appointed under Act XXXVII of 1855, and regarding any matter which he is authorized to adjudicate in anticipation of settlement under Section 26 of this Regulation.

9. The Lieutenant-Governor may, by notification in the *Calcutta Gazette*, declare that a settlement shall be made of the whole or any part of the Sonthal Pergunnahs for the purpose of ascertaining and recording the various interests and rights in the lands.

10. The Lieutenant-Governor may appoint the officers by whom the settlement is to be made, and may invest any officer or officers with the control over them by way of appeal and revision, and may make rules for the procedure of such officers in the investigation into rights in the land and the hearing of suits, and generally for the guidance of such officers. The Lieutenant-Governor may reserve to himself an ultimate power of revision in respect of any cases decided in any Settlement Court.

11. Except as provided in Section 25, no suit shall lie in any Civil Court regarding any matter decided by any Settlement Court under these rules; but the decisions and orders of the Settlement Courts made under these rules, regarding the interests and rights above mentioned, shall have the force of a decree of Court.

12. The settlement officers shall have power to inquire into, to decide and to record the rights of the zemindars and other proprietors, the rights of the tenants or ryots, the rights of the manjhees or other headmen as against both the proprietors and the tenants, and also any other landed rights to which, by the law or custom of the country or of any tribe, any person may have legal or equitable claim. Provided that no claim shall be heard to any rights or interests of which the claimant has not held possession either himself or through persons from whom he claims at some time since the 1st day of January 1859.

Inquiry into landed rights.

13. The record of rights to be prepared by a settlement officer shall show the nature and incidents of each right and interest held by each class of occupiers or owners in a village; or, if need be, of each individual owner, occupier, or headman in a village.

14. The settlement officer shall give due notice to the people of a village for which he is about to prepare a record of rights, so that all persons interested may bring forward their claims either in writing or by verbal application. But the settlement officer shall inquire into, settle, and record all rights in, or claims to, the lands of a village of which he is preparing a record of rights, even though such claims or rights may not be urged by the parties interested.

Record of rights.

15. The settlement officer shall demarcate and define the boundaries of each village, and when doing so, he may exclude from such village any large area of waste or forest which may be beyond the reasonable requirements of the village: provided that no block of waste land or forest of which the people of the village have hitherto had the use shall be excluded from such village, if before such exclusion one-third of the total area of the village is cultivated or is fallow in due course of agricultural rotation, according to the practice of the country. The exclusion of any waste land from any village under this provision shall not affect any proprietary rights in the land, but such rights shall remain intact.

Demarcation of excess waste.

16. Any decision regarding the rights of the manjhees or other village headmen, passed by any officer appointed under Act XXXVII of 1855, which may on due inquiry be found by the settlement officer to have been passed under a misapprehension as to the laws in force in the Sonthal Pergunnahs, or without sufficient inquiry into, and regard for, the customs of the country and of the people, may be reviewed and modified by such settlement officer.

17. In deciding the status, rights, and claims of manjhees or other village headmen, the settlement officer shall have regard to the following rules:—

Manjhees or village headmen.

(*a.*) Any manjhee or other headman of a village, who may have lost his office, or the management of his village, for whatever cause, or in whatever manner, on any date after the 31st December

1858, shall be eligible for reinstatement in such headship, and in the lease or management of the village if he has a fair and equitable claim thereto.

(*b.*) No claim to be recorded as manjhee or headman with an occupancy right in the lease or management of a village shall be conclusively shut out by reason of the claimant having been described as a mustajir or farmer in any deed to which such claimant may have been a party.

(*c.*) If the rent now payable by any manjhee or headman of a village appears to the settlement officer inequitable, by reason that such person has rights independent of contract, or that he was not in a position fairly and freely to contract, the settlement officer may modify and abate such rent and fix a fair and equitable rent. If the rent appears to the settlement officer to be too low, he may enhance such rent, either immediately or prospectively, on the termination of any existing agreement. The rent payable by any manjhee, farmer, or other headman of a village, shall be determined on a consideration of the rates of the rent payable in the neighbourhood, and of the number of ploughs at work in the village, and of such other matters as may appear to the settlement officer to afford ground for an equitable decision. If necessary, the cultivated and uncultivated land in such village may be measured.

Rights of ryots or cultivators.

18. In deciding the status, rights, and claims of ryots or occupiers, the settlement officer shall have regard to the following rules:—

(*a.*) Any ryot who may either himself or through persons from whom he inherits have held fields in a village for a period of twelve years shall be deemed to have occupancy rights in such fields.

(*b.*) Any ryot who, having possessed a right of occupancy or an equitable claim to occupancy, has lost possession of his land or any portion of his land since the 31st day of December 1858, may claim to be replaced in possession of such land, and to be recorded as possessing occupancy rights therein, if in the opinion of the settlement officer he is justly entitled thereto.

(*c.*) Any ryot who has exchanged fields for other fields in the same village shall be held to have acquired an occupancy right in the fields taken in exchange in the same manner as if no exchange had taken place.

(*d.*) Where ryots holding lands under a manjhee or other headman of a village pay their share of the village rent according to any fixed custom of proportion, or where the share of rent payable by each ryot is fixed annually or periodically by the village elders or in any other way, the existence of such custom shall be recorded.

(*e.*) When the ryots of any village pay rent either direct to the proprietor or to his agent, or to any farmer, or to a manjhee, the settlement officer shall record such rents if they are fair and equitable. If such rent appear to the settlement officer to be unfair and inequitable, he shall inquire into and shall re-settle such rents; and he may make such re-settlement of rents either according to the number of ploughs owned by each ryot, or according to the area of the cultivated land held by him, or in any other manner which may be customary and equitable.

Term for rents.

19. The rents of both headmen and ryots, when adjusted and recorded by the settlement officer, shall remain unchanged for not less than seven years from the time of such adjustment and record, and thenceforward until a fresh settlement or agreement be made.

Special considerations in adjusting rents.

20. In adjusting rents as between proprietors and manjhees or other headmen, and between proprietors, farmers, or headmen and ryots, the settlement officer may, in connection with other circumstances, have regard to the agricultural skill and habits of life of the class or tribe to which the rent-payers may belong.

21. In any case in which the headmen or the ryots or the persons through whom they claim reclaimed the land from forest or waste, regard shall be had to such fact in settling the rents.

22. The settlement officer shall decide, and shall enter in the village record of rights, the several instalments of yearly rent and the dates on which such instalment shall be payable by the ryots and by the manjhees or headmen. If the number and dates of the existing instalments press hardly upon the people of any village, the settlement officer shall have power to reduce the number and alter the dates of such instalments. The amount and dates of the instalments shall remain unaltered, until otherwise ordered by the Lieutenant-Governor.

Instalments of rent.

23. For every village shall be drawn up a paper setting forth the custom of the village or tribe in regard to the following facts:—

Record of village customs.

(*a.*) The existence of the office of manjhee or other village headship and the duties and emoluments of each headman, and the customs of succession to the headship by inheritance, election, or otherwise.

(*b.*) The removal or suspension of a headman for misconduct, and the appointment or election to a vacant headship.

(*c.*) The devolution of the lands held by proprietors or under-proprietors or headmen, or cultivated by ryots, any custom contrary to the ordinary Hindoo or Mahomedan law being noted.

(*d.*) The tenure of houses in the village, and the payment of ground-rents and dues by non-cultivating residents.

(*e.*) The duties and dues of village watchmen and other village servants and their succession to and removal from office.

(*f.*) The management and usufruct of the waste land, and other matters relating to the internal arrangement of villages.

24. After the settlement officer shall have made the record of rights for any village, he shall notify and publish the contents of such record to the persons interested by posting it conspicuously in the village and otherwise in such manner as may be convenient. Any person interested shall thereupon be allowed to bring forward in the

Publication of record of rights.

Original or Appellate Settlement Courts any objection he may desire to make to any part of such record: and the objections so made shall be inquired into and disposed of by a decision in writing under the hand of the officer presiding in the Court before which such objection may be urged or brought on appeal or otherwise.

Objections against such record.

25. After a period of a year from the date of the publication of the record of rights of any village, such record shall be conclusive proof of the rights and customs therein recorded, other than the rights mentioned in the latter part of this section, except so far as concerns entries in such record regarding which objections by parties interested may still be pending. When a record of rights shall have become final, or an objection to any entry in a record of rights shall have been finally disposed of by the Settlement Courts, such record shall not be reopened or modified, save as provided by the customs of the village, without the previous sanction of the Lieutenant-Governor of Bengal. But in case of the discovery of material error, it shall be lawful for the said Lieutenant-Governor to direct, by a writing under his hand, that the record of any village shall be revised.

Record to be final after a year's publication.

The Courts established under Act VI of 1871 are empowered to find and determine the rights of zemindars and other proprietors as between themselves, if any suit affecting such rights be pending at the time when this Regulation shall come into operation, or if a suit or issue be referred to the Court under the provisions of Section 5, or if a suit be brought to contest the finding or record of the settlement officer within three years from the date of the said publication or of the final order of the Revenue Court. But no such suit shall be brought in any Court after the expiration of three years from such date. If in any such suit it shall be found that the finding of the settlement officer is erroneous, the record shall be amended accordingly.

District officers may take up land cases.

26. Pending the completion of a settlement under this Regulation, the officers of the Sonthal Pergunnahs appointed under Section 2, Act XXXVII of 1855, may, if the Lieutenant-Governor shall so direct, take up and decide under this Regulation, either on their own motion or at the request of the parties, any suit for rent or arrears of rent, or any claim for enhancement or abatement of rent, or any complaint of exaction or improper ouster from land or offices. Decisions regarding rates of rent or the possession of land or officers passed by these officers under this section shall remain in force until such time as the record of rights for the village or villages to which such decision may refer shall be prepared.

And pass provisional orders.

The said officers shall also have power to pass such provisional orders as they may deem required for the maintenance of peace and order in the Sonthal Pergunnahs on all matters referred to in Sections 5, 9, 10, and 12 to 24 of this Regulation: all such provisional orders shall have the force of a decision of settlement officers under these Regulations until such time as the record of rights shall have been prepared, or the matter shall have been decided by a Settlement Court.

SCHEDULE OF REGULATIONS AND ACTS IN FORCE IN THE SONTHAL PERGUNNAHS SO FAR AS THEY ARE UNREPEALED.

Regulations of the Bengal Code.

I of 1793	XLVIII of 1793
VIII of 1793	III of 1794
XIV of 1793	XV of 1797
XIX of 1793	I of 1798
XXXVII of 1793	VII of 1799
XXXVIII of 1793	VIII of 1800

I of 1801
X of 1804
XI of 1806
XVII of 1806
XX of 1810
XI of 1811
V of 1812
XI of 1812
XVIII of 1812
XIX of 1814
XXIX of 1814
V of 1817
XII of 1817
III of 1818
I of 1819
II of 1819
VIII of 1819
I of 1820
VII of 1823
VI of 1825
XI of 1825
XIII of 1825
XIV of 1825
XVII of 1829

Acts of the Governor-General of India in Council.

XX of 1836
XXI of 1836
IV of 1837
XI of 1838
XII of 1841
V of 1843
IX of 1847
XX of 1848
XII of 1850
XVIII of 1850
XXI of 1850
XXV of 1850
XXXIII of 1850
XXXIV of 1850
XXXVII of 1850
VIII of 1851
V of 1852
II of 1853
VI of 1853
XVIII of 1854
XIII of 1855
XXIV of 1855
XXVI of 1855
XXXVII of 1855
XI of 1856
XV of 1856
XXI of 1856
X of 1857
XIII of 1857
III of 1858
XXXI of 1858
V of 1859
XI of 1859
XIV of 1859
VIII of 1860
IX of 1860
XXIII of 1860
XXXI of 1860
XLV of 1860
XVI of 1863
III of 1864
XV of 1864

III of 1865
V of 1865
X of 1865
XI of 1865
VI of 1866
XIV of 1866
XXI of 1866
VII of 1867
XXIV of 1867
XXV of 1867
XXXI of 1867
I of 1868
II of 1869
IV of 1869
V of 1869
IX of 1869
XV of 1869
XVIII of 1869
XX of 1869
XXI of 1869
VII of 1870
X of 1870
XIII of 1870
XX of 1870
XXI of 1870
XXIII of 1870
XXVII of 1870
III of 1871
V of 1871
VII of 1871
VIII of 1871
XII of 1871
XXIII of 1871
XXIV of 1871
XXV of 1871
XXVI of 1871
I of 1872
III of 1872
VIII of 1872
IX of 1872
X of 1872
XI of 1872

Acts of the Lieutenant-Governor of Bengal in Council.

III of 1862
VII of 1862
VIII of 1862
II of 1864
IV of 1864
VII of 1864
IV of 1865
V of 1865
VIII of 1865
III of 1866
V of 1867
IV of 1868
VII of 1868
II of 1870